

~~---ICC-01/12-01/18-T-041-CONF-ENG-ET-05-11-2020-1/63-NB-T-----~~

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

- 1 International Criminal Court
- 2 Trial Chamber X
- 3 Situation: Republic of Mali
- 4 In the case of The Prosecutor vs Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
- 5 Mahmoud - ICC-01/12-01/18
- 6 Presiding Judge Antoine Kesia Mbe Mindua, Judge Tomoko Akane and
- 7 Judge Kimberly Prost
- 8 Trial Hearing - Courtroom 1
- 9 Thursday, 5 November 2020
- 10 (The hearing starts in open session at 9.31 a.m.)
- 11 THE COURT USHER: [9:31:30] All rise.
- 12 The International Criminal Court is now in session.
- 13 Please be seated.
- 14 PRESIDING JUDGE MINDUA: [9:31:58](Interpretation) Court is in session.
- 15 Good morning to everybody.
- 16 Madam courtroom officer, could you please call the case.
- 17 THE COURT OFFICER: [9:32:10] Thank you, Mr President.
- 18 The situation in the Republic of Mali, in the case of The Prosecutor versus Al Hassan
- 19 Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
- 20 For the record, we are in open session.
- 21 PRESIDING JUDGE MINDUA: [9:32:30](Interpretation) Thank you very much,
- 22 madam courtroom officer.
- 23 As every day, we're going to start with the appearances.
- 24 THE INTERPRETER: [9:32:41] Message from the English booth: The interpreters
- 25 have a problem with the Arabic booth. Could we please stop for a moment, please.

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- 1 MR DUTERTRE: [9:32:43](Overlapping speakers)
- 2 PRESIDING JUDGE MINDUA: [9:33:06](No interpretation)
- 3 THE COURT OFFICER: [9:33:08] I'm informed that the Arabic booth has a problem.
- 4 I will immediately send a technician.
- 5 (Pause in proceedings)
- 6 THE INTERPRETER: [9:34:35] Message from the English booth: We may proceed.
- 7 The issue seems to have been solved. Apologies.
- 8 PRESIDING JUDGE MINDUA: [9:34:50](Interpretation) Mr Prosecutor.
- 9 MR DUTERTRE: [9:34:51](Interpretation) Yes, good morning again, Mr President,
- 10 your Honours.
- 11 The Prosecution is still represented today by Mousa Allafi at the rear;
- 12 Sarah Coquillaud, just behind me; Lucio Garcia to my left; and myself, Gilles Dutertre.
- 13 Thank you very much.
- 14 PRESIDING JUDGE MINDUA: [9:35:15](Interpretation) Thank you very much,
- 15 Mr Prosecutor.
- 16 I'm going to turn to the Defence now.
- 17 Ms Taylor.
- 18 MS TAYLOR: [9:35:21] Good morning, Mr President. Good morning, your
- 19 Honours. The Defence for Mr Al Hassan is represented by Ms Dolly Chahla and
- 20 myself, Melinda Taylor.
- 21 And Ms Sutherland expressed her apologies for not being present today but will be
- 22 present tomorrow. Thank you.
- 23 PRESIDING JUDGE MINDUA: [9:35:46](Interpretation) Thank you very much.
- 24 Mr Kassongo for the Legal Representatives for Victims, please.
- 25 MR KASSONGO: [9:35:50](Interpretation) Good morning, Mr President, your

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1 Honours. Our team for the Legal Representatives of Victims today, comprises
2 Madam Claire Laplace who is assisting me, and myself, Mr Kassongo. Thank you
3 very much.

4 PRESIDING JUDGE MINDUA: [9:36:05](Interpretation) Thank you very much
5 Mr Kassongo.

6 I'm now going to turn to the witness.

7 Good morning, Mr Witness, and I'd like to welcome you once again. Can you hear
8 me?

9 WITNESS: MLI-OTP-P-0065 (On former oath)

10 (The witness speaks Arabic)

11 THE WITNESS: [9:36:37](Interpretation) Good morning. I hear you very clearly.

12 PRESIDING JUDGE MINDUA: [9:36:45](Interpretation) Thank you very much.
13 Everything is working.

14 Mr Witness, I would like to remind you that you are still under oath and that you
15 should speak the truth, the whole truth and nothing but the truth.

16 I would like to, furthermore, remind you of the practical advice that I gave you
17 yesterday.

18 So, without further ado, let me hand over to the office of the Prosecution.

19 MR DUTERTRE: [9:37:17](Interpretation) Thank you, Mr President.

20 QUESTIONED BY MR DUTERTRE: (Continuing)(Interpretation)

21 Q. [9:37:23] Good morning, Mr Witness. How are you this morning?

22 A. [9:37:29] Good morning. I am doing well.

23 Q. [9:37:36] Mr Witness, we shall continue for a few moments in open session and,
24 a bit like I did yesterday, at the beginning of the hearing.

25 You indicated to us that Abdallah Al Chinguetti had taken the command of the

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1 Al-Fourqane battalion and you also told us that he was deceased. Do you know who
2 replaced him at the head of the Al-Fourqane battalion?

3 A. [9:38:26] It was Talha who took over and I think he was called Talha the Libyan.
4 He took over the emir position of the Al-Fourqane battalion.

5 Q. [9:38:52] You say that Talha -- Talha the Libyan, as he was called, where did he
6 hail from, which country?

7 A. [9:39:06] I think he was from northern Mali and he had parents, one parent, a
8 Malian, and the other parent is a Mauritanian. I'm not sure which of the parents is
9 which nationality, but that's what I heard.

10 PRESIDING JUDGE MINDUA: [9:39:31](Interpretation) Ms Taylor, please.

11 MS TAYLOR: [9:39:32] I apologise, but it appears that my colleague and
12 Mr Al Hassan can't hear the witness. There appears to be an issue with the
13 translation.

14 PRESIDING JUDGE MINDUA: [9:39:51](Interpretation) Madam courtroom officer,
15 please.

16 THE COURT OFFICER: [9:40:16] I am informed that the problem is solved. So
17 maybe, Mr Witness, would you mind to run a test again. Thank you.

18 THE WITNESS: [9:40:31](Interpretation) Testing, one, two, three. Can you hear me
19 clearly?

20 PRESIDING JUDGE MINDUA: [9:40:38](Interpretation) There we are. It's all
21 working.

22 Prosecutor, please.

23 MR DUTERTRE: [9:40:42](Interpretation) I don't know for how long the accused has
24 not been able to hear. So I don't know whether I should repeat.

25 Ms Taylor might be able to shed light on the matter so that her client has all the

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1 information.

2 MS TAYLOR: [9:41:02] It was only the last question.

3 MR DUTERTRE: [9:41:11](Interpretation) Thank you, Ms Taylor.

4 Q. [9:41:15] Mr Witness, could you please repeat your answer to my question,
5 which was: From which country Abou Talha, whom you called Talha the Libyan,
6 where did he come from?

7 A. [9:41:32] Talha is from the Arabs of northern Mali and Mauritania and,
8 according to what I heard, is that one of his parents was a Malian Arab and the other
9 was a Mauritanian. And I don't know which of the two parents is which nationality,
10 and I do not have precise information about his parents.

11 Q. [9:42:01] Are you in a position to tell us, Mr Witness, in 2012 during the
12 occupation of Timbuktu by the armed groups Ansar Dine and AQMI, where Abou
13 Talha was at the time?

14 A. [9:42:16] Talha was the head of security in Timbuktu and the -- also the person
15 in charge of the army in Timbuktu.

16 Q. [9:42:39] Very well. And do you know where he was based in the city of
17 Timbuktu?

18 A. [9:42:46] I do not know precisely where he was based. I know that his
19 residence was not far from the location where the Malian TV and radio station is, and
20 I also know that he was one of the leaders governing the city and that he would go
21 around the city with his car known to everyone, and he would also oversee all events.

22 Q. [9:43:25] Did he have a place or an office outside of his residence where he lived?
23 Did he have a place where he could conduct his activities as head of security?

24 A. [9:43:38] I don't remember that there was a particular office or facility for Talha.

25 MR DUTERTRE: [9:43:57](Interpretation) Now, Mr President, your Honours, I'd like

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1 to go into private session, please.

2 PRESIDING JUDGE MINDUA: [9:44:04](Interpretation) Could we go into private
3 session, please, madam courtroom officer.

4 (Private session at 9.44 a.m.)

5 THE COURT OFFICER: [9:44:14] We are in private session, Mr President.

6 PRESIDING JUDGE MINDUA: [9:44:20](Interpretation) Thank you very much,
7 courtroom officer.

8 Prosecutor, please.

9 MR DUTERTRE: [9:44:26](Interpretation) Thank you, Mr President, your Honours.

10 I'd like to play a video, the video is 0018-0350, which is 18 seconds in lengths -- in
11 length and is to be found at tab 112 of the first binder. With a transcript, number
12 0069-1419, to be found at tab 113 and a translation, 0069-7579, to be found at tab 114.
13 And I shall play it without the sound first of all.

14 Q. [9:45:49] But, firstly, Mr Witness, can you see an image on your screen?

15 A. [9:45:56] (No interpretation)

16 Q. [9:45:57] Very well. So I'm going to play this video of 18 seconds of duration
17 without the sound.

18 (Viewing of the video excerpt)

19 MR DUTERTRE: [9:46:29](Interpretation)

20 Q. [9:46:31] [REDACTED]?

21 A. [9:46:36] [REDACTED]

22 Q. [9:46:39] [REDACTED]

23 A. [9:46:48] [REDACTED]

24 [REDACTED] Timbuktu in 2012. [REDACTED]

25 [REDACTED] when

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- 1 MNLA were kicked out from the airport and its surroundings.
- 2 Q. [9:47:26] Thank you.
- 3 MR DUTERTRE: (Interpretation) I'm going to now play it with the sound,
- 4 Mr President, your Honours. And the interpreters can of course read the transcript
- 5 and its translation.
- 6 (Viewing of the video excerpt)
- 7 THE INTERPRETER: [9:48:00] (Interpretation from the video excerpt)
- 8 "What do you think about this operation after which the ...?
- 9 May the *peace, mercy and blessings of Allah be upon you ... You want a
- 10 statement ..."
- 11 THE INTERPRETER: [9:48:11] The English interpreter did not catch what the French
- 12 interpreter said. For the record, the English interpreter does not have the binder.
- 13 There are only two binders in existence.
- 14 MR DUTERTRE: [9:48:28](Interpretation)
- 15 Q. [9:48:29] Mr Witness, I came back to 00:00:07:08. Can you please tell us who
- 16 the person to the left of the image is with a black turban?
- 17 A. [9:48:46] That's Talha.
- 18 Q. [9:48:56] And to the right with the -- with a light brown turban whom Abou is
- 19 shaking his hand?
- 20 A. [9:49:11] I think he was called Abou Youssouf and I think he was from the Tariq
- 21 Ibn Ziyad battalion.
- 22 Q. [9:49:31] I've come back somewhat to 00:00:03:06. Are you able to identify the
- 23 individual wearing black to the far right of the screen?
- 24 A. [9:49:56] I think it's Abou Sayaf, and I think he's also from the Tariq Ibn Ziyad
- 25 battalion, and I think he was in charge of the equipment and vehicles that were seized,

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- 1 whether they belonged to companies or to the government. I think he was in charge
2 of the repair facility along with Abou Zeid.
- 3 Q. [9:50:33] Thank you. I have come back to 00:00:15:06. It's against the light and
4 the image is not very clear, but are in a position who the person on the right-hand
5 side of the image is wearing a dark-coloured turban?
- 6 A. [9:51:05] Radwan.
- 7 MR DUTERTRE: [9:51:16](Interpretation) We can go back into open session,
8 Mr President, please.
- 9 PRESIDING JUDGE MINDUA: [9:51:23](Interpretation) Courtroom officer, please,
10 open session.
- 11 (Open session at 9.51 a.m.)
- 12 THE COURT OFFICER: [9:51:29] We are back in open session, Mr President.
- 13 PRESIDING JUDGE MINDUA: [9:51:34](Interpretation) Thank you very much.
14 Mr Prosecutor.
- 15 MR DUTERTRE: [9:51:37](Interpretation) Thank you, Mr President.
- 16 Q. [9:51:42] Mr Witness, could you help us and explain to the Chamber what the
17 difference was between the security headed up by Abou Talha, on one side, and the
18 Islamic police, in terms of functions?
- 19 A. [9:52:15] Could you please rephrase your question.
- 20 Q. [9:52:27] Yes, of course. Could you explain to us what the security did, on the
21 one hand, and what the Islamic police did on the other. What I'd like to understand
22 are the responsibilities of one and the other, so the Chamber understands what
23 security is versus the Islamic police?
- 24 A. [9:52:57] I think it was security in charge of gates, entrances and military
25 checkpoints within the city and also outside the city. And it was the Islamic police

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1 that was -- that had as a task the affairs of the people and the local inhabitants and
2 their internal problems.

3 Q. [9:53:40] Thank you.

4 I'd now like to, Mr President, your Honours, go on to something else and I would
5 need to go into private session, please.

6 PRESIDING JUDGE MINDUA: [9:53:55](Interpretation) Madam courtroom officer,
7 private session, please.

8 (Private session at 9.54 a.m.)

9 THE COURT OFFICER: [9:54:03] We're in private session, Mr President.

10 PRESIDING JUDGE MINDUA: [9:54:14](Interpretation) Thank you very much.
11 Prosecutor.

12 MR DUTERTRE: [9:54:17](Interpretation) Thank you, Mr President. I would like to
13 play a video for which the ERN is 0018-0146, which is 29 seconds in duration, at tab
14 56 of your binder. The transcript is 0069-1389, tab 57, and the translation is 0078-81,
15 at tab 58.

16 THE INTERPRETER: [9:55:20] The interpreter did not catch the full reference, it was
17 said too fast.

18 MR DUTERTRE: [9:55:26](Interpretation) And I shall be playing it without the
19 sound, first of all.

20 (Viewing of the video excerpt)

21 MR DUTERTRE: [9:56:06](Interpretation)

22 Q. [9:56:08] [REDACTED] ?

23 A. [9:56:15] [REDACTED]

24 [REDACTED] These are the images of whipping a member of Ansar Dine who was
25 considered -- who was convicted of betrayal of trust in a store -- a storehouse he was

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1 charge for. [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]

6 Q. [9:57:22] Now, at what location are we specifically, if you can determine, please?
7 What location?

8 A. [9:57:34] I cannot determine that because I was not present, [REDACTED]
9 [REDACTED] does not show the location clearly because the different parts of the -- of
10 Timbuktu are similar.

11 Q. [9:57:59] [REDACTED] In other words,
12 you weren't in Timbuktu at the time, but do you remember what period in time it
13 was?

14 A. [9:58:14] The end of -- towards the end of 2012, but I do not remember the exact
15 month.

16 Q. [9:58:28] Very well.

17 MR DUTERTRE: [9:58:31](Interpretation) We can go back into open session,
18 Mr President, your Honours.

19 PRESIDING JUDGE MINDUA: [9:58:35](Interpretation) Open session, please,
20 courtroom officer.

21 MR DUTERTRE: [9:58:38](Interpretation) No, I'm not going to be playing it with the
22 sound.

23 PRESIDING JUDGE MINDUA: [9:58:44](Interpretation) We shall continue in private
24 session, then.

25 (Viewing of the video excerpt)

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- 1 MR DUTERTRE: [9:58:56](Interpretation) And I don't hear any sound.
- 2 (Viewing of the video excerpt)
- 3 MR DUTERTRE: [9:59:48](Interpretation) We can move back into open session now,
- 4 Mr President, your Honours.
- 5 PRESIDING JUDGE MINDUA: [9:59:55](Interpretation) Open session please,
- 6 madam courtroom officer.
- 7 (Open session at 10.00 a.m.)
- 8 THE COURT OFFICER: [10:00:06] We're in open session, Mr President.
- 9 PRESIDING JUDGE MINDUA: [10:00:16](Interpretation) Thank you very much.
- 10 Mr Prosecutor.
- 11 MR DUTERTRE: [10:00:20](Interpretation) Thank you, Mr President.
- 12 Q. [10:00:22] Mr Witness, at 00:00:04:07 can you say who the individual to the
- 13 left-hand side is wearing a pink boubou is, who is flogging the individual?
- 14 A. [10:00:43] I don't recall who that is. I cannot recognise him.
- 15 Q. [10:01:01] Next to him there's somebody in a dark boubou and a light-brown
- 16 turban. Do you know who that person is?
- 17 A. [10:01:14] Yes, that's Radwan.
- 18 Q. [10:01:40] I am now at 00:00:22:01. The person on the extreme left of the image,
- 19 Mr Witness, can you tell us who that is, please?
- 20 A. [10:02:00] The images of not -- the quality of the image is not good, but it seems
- 21 to be Al Hassan.
- 22 Q. [10:02:17] And the person in the black boubou with the green turban who is next
- 23 to him on the right of Al Hassan, who is that?
- 24 A. [10:02:34] That's Abou Bacar Al Chinguetti, known in Timbuktu as Abou Bacar
- 25 the Whipper. He was the most among the member -- most famous among the

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1 members of the *Hesbah* and all women in Timbuktu feared him. And would always
2 go around the city in a car holding a whip and he is the most person concerned
3 with -- he is the most person bent on enforcing the dress code for women in their
4 gatherings.

5 MR DUTERTRE: [10:03:32] (Interpretation) I have finished with this, Mr President.

6 Can we please move into private session?

7 PRESIDING JUDGE MINDUA: [10:03:41](Interpretation) Private session, please,
8 court officer.

9 (Private session at 10.03 a.m.)

10 THE COURT OFFICER: [10:03:47] We're in private session, Mr President.

11 PRESIDING JUDGE MINDUA: [10:04:04](Interpretation) Thank you, court officer.
12 Prosecutor.

13 MR DUTERTRE: [10:04:06](Interpretation) I would now like to show 0018-0147, 40
14 seconds, and the reference is 0033-5737, it's at tab 59, and transcript 61 and
15 62 -- 60 -- 0033.

16 THE INTERPRETER: [10:04:50] I'm sorry, I missed the full reference.

17 MR DUTERTRE: [10:05:10](Interpretation) 5429. 0033-5429.

18 I'm going to play this without sound.

19 (Viewing of the video excerpt)

20 MR DUTERTRE: [10:05:52](Interpretation)

21 Q. [10:05:54] Mr Witness, do you recognise these images?

22 A. [10:06:00] Yes, it's the same images from the previously-played video.

23 MR DUTERTRE: [10:06:11](Interpretation) I will now play it with sound, your
24 Honours, and then we can move back into open session.

25 (Viewing of the video excerpt)

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1 MR DUTERTRE: [10:07:08](Interpretation) Thank you. Open session, please.

2 PRESIDING JUDGE MINDUA: [10:07:14](Interpretation) Court officer, open session,
3 please.

4 (Open session at 10.07 a.m.)

5 THE COURT OFFICER: [10:07:27] We're in open session, Mr President.

6 PRESIDING JUDGE MINDUA: [10:07:31](Interpretation) Thank you very much.
7 Prosecution.

8 MR DUTERTRE: [10:07:34](Interpretation) Thank you, your Honour.

9 Q. [10:07:37] Mr Witness, who is the person on the left in black with a green turban
10 who is flogging the victim?

11 A. [10:07:51] That's Abou Bacar Al Chinguetti, alias Abou Bacar the Whipper.

12 Q. [10:08:14] I am now at 00:00:06:03. Who is the person on the right with a brown
13 turban and carrying a bag on his shoulder?

14 A. [10:08:30] That's Radwan.

15 Q. [10:08:45] I am now at 00:00:31:08. Who is the person on the extreme left with
16 an ochre or red boubou and a white turban?

17 A. [10:09:04] It's Talha.

18 Q. [10:09:16] Now at 00:00:39:04, who is the person on the left of the image who is
19 reaching his hand out towards the elbow of the person who has been flogged?

20 A. [10:09:37] It's Al Hassan.

21 MR DUTERTRE: [10:09:45](Interpretation) I have finished with this item of evidence,
22 your Honours. I would now like to move to private session, please.

23 PRESIDING JUDGE MINDUA: [10:09:57](Interpretation) Private session, please,
24 court officer.

25 (Private session at 10.10 a.m.)

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1 THE COURT OFFICER: [10:10:08] We are in private session, Mr President.

2 PRESIDING JUDGE MINDUA: [10:10:16](Interpretation) Thank you.

3 Prosecution.

4 MR DUTERTRE: [10:10:18](Interpretation) Thank you, your Honour. I'd now like

5 to see a video from tab 62, which has the transcript at 0069-1384. And 63, and the

6 translation 0078-1868 -- 64, and the reference of the video is 0018-0145. It's a very

7 short video which is only three seconds, which I will show without sound.

8 (Viewing of the video excerpt)

9 MR DUTERTRE: [10:11:38](Interpretation)

10 Q. [10:11:40] [REDACTED]

11 [REDACTED]?

12 A. [10:11:52] [REDACTED]

13 Q. [10:12:16] I move now to 00:00:00:00. I know the image is not very good quality,

14 but are you able to read what is on the white sign on the left? The white sign in front

15 of the green building?

16 A. [10:12:52] Yes. Abaradjou. In French, *monument de la paix*, peace monument,

17 pointing to the way that leads to the Abaradjou neighbourhood and the peace

18 monument.

19 Q. [10:13:26] We don't have a transcript of the beginning of the reply, which related

20 to the first line on the sign. Mr Witness, please, could you just repeat what you just

21 said so that it can be noted correctly for the transcript?

22 A. [10:13:44] What is written on that plate is, Abaradjou, *monument de la paix*, peace

23 monument, pointing in the direction that leads to the Abaradjou neighbourhood, the

24 peace monument.

25 Q. [10:14:12] Thank you, Mr Witness. And the Abaradjou quarter is in which

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1 town?

2 A. [10:14:22] In the city of Timbuktu.

3 Q. [10:14:27] And the peace monument, do you know what that is?

4 A. [10:14:34] Yes, it's the statue that -- where the arms were burned, the arms of the
5 rebels in the '90s revolution, after the signature of the agreement between them and
6 the Malian government.

7 Q. [10:15:08] At the same timestamp 00:00 you can see a white pickup. Do you
8 know to which organ this white pickup belongs, Mr Witness?

9 A. [10:15:23] I think it belongs to the Islamic police.

10 Q. [10:15:31] And the person standing up behind the cabin of the pickup, to which
11 organ does this person belong?

12 A. [10:15:50] The person dressed in red is Talha.

13 Q. [10:15:59] Thank you. I'll come back to my question afterwards, but what is
14 Talha carrying on his shoulder?

15 A. [10:16:10] That's a Kalashnikov rifle.

16 Q. [10:16:18] So I will try and indicate with my mouse, with my cursor. This
17 person standing up on the pickup, to which organ does this person belong?

18 A. [10:16:35] It is clear that he belongs to the Islamic police. That can be told from
19 the vest he has on.

20 Q. [10:16:53] And can you say who it is, who is helping the person who has just
21 been whipped back to the vehicle?

22 A. [10:17:04] It's Al Hassan.

23 MR DUTERTRE: [10:17:22](Interpretation) I have finished with this now, your
24 Honours, and I would like to move to closed session for another element.

25 PRESIDING JUDGE MINDUA: [10:17:42](Interpretation) Are we not already in

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(Private Session)

ICC-01/12-01/18

1 private session?

2 MR DUTERTRE: [10:17:54](Interpretation) Then I'm sorry. In that case, I would
3 like to show -- to show 0018-2249 (sic), which is in 19.

4 Q. [10:18:17] Can you see this image?

5 A. [10:18:19] Yes.

6 Q. [10:18:20] [REDACTED]?

7 A. [10:18:23] I don't remember.

8 Q. [10:18:44] And do you know where it is?

9 A. [10:18:50] I think in Timbuktu, the buildings are clearly in Timbuktu. The
10 architectural style of Timbuktu is different from any other city in Mali.

11 MR DUTERTRE: [10:19:22](Interpretation) We can move into open session, your
12 Honours.

13 PRESIDING JUDGE MINDUA: [10:19:30](Interpretation) Public session, please,
14 court officer.

15 (Open session at 10.19 a.m.)

16 THE COURT OFFICER: [10:19:38] We are in open session, Mr President.

17 PRESIDING JUDGE MINDUA: [10:19:48](Interpretation) Thank you very much,
18 court officer.

19 Prosecution.

20 MR DUTERTRE: [10:19:52](Interpretation) Thank you, your Honours.

21 Q. [10:19:58] Can you tell us what we can see on this image, Mr Witness?

22 A. [10:20:07] On this image, there is a person whipping another person and an
23 audience of spectators watching the whipping. And the person whipping, and the
24 person close to him, are wearing Islamist groups clothes.

25 And I think this was filmed in -- this was captured in Timbuktu, given that these

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1 buildings have a Timbuktu-style architecture.

2 Q. [10:20:54] Could you clarify for the parties and the Chamber what you mean by
3 "Islamic group clothing"?

4 A. [10:21:08] The Islamist groups have a special kind of attire and it's the -- a thick
5 kind of cloth, a very long robe that extends to knee level, plus trousers. And we see
6 here that the person doing the whipping, and the person to the far right of the image,
7 both are -- all are wearing the clothes of these groups.

8 Q. [10:21:46] Thank you.

9 MR DUTERTRE: (Interpretation) I would now like to move again into private
10 session, your Honours.

11 PRESIDING JUDGE MINDUA: [10:21:53](Interpretation) Private session, please,
12 court officer.

13 (Private session at 10.21 a.m.)

14 THE COURT OFFICER: [10:22:05] We are in private session.

15 PRESIDING JUDGE MINDUA: [10:22:11](Interpretation) Thank you very much.
16 Prosecution.

17 MR DUTERTRE: [10:22:13](Interpretation) Thank you, your Honour. I'd now like
18 to show a photo, 0072-2357 at tab 159. Sorry, 0018-2357. Apologies. And 259 -- 269.

19 Q. [10:22:57] [REDACTED]?

20 A. [10:23:01] [REDACTED]

21 Q. [10:23:05] [REDACTED]?

22 A. [10:23:10] I don't know. This image is of the person whose hand was chopped
23 off for theft, [REDACTED]

24 [REDACTED] a person called me to tell me of the
25 events, [REDACTED]

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4 Q. [10:24:12] Thank you.

5 Who was the person who rang you to tell you about this event?

6 A. [10:24:23] It's -- it was a friend, a merchant, a very -- an average person. He
7 told me by phone that there was an event in Timbuktu. I told him What the event is?
8 He told me that a thief had his hand chopped off. He is a civilian person. He did
9 not belong to the other groups.

10 Q. [10:24:55] Do you recall his name?

11 A. [10:24:58] Yes, he's a friend. One of my dearest friends. His nickname was

12

13 Q. [10:25:20] And do you know whether this friend was present when the
14 amputation took place?

15 A. [10:25:32] He was present in the square, but I don't remember whether he was
16 present when the amputation took place. But as far as he told me, he could not bear
17 watching that happening. This is what I recall. But I'm not sure.

18 Q. [10:26:03] And when you say "in the square", which square would that be
19 exactly?

20 A. [10:26:14] I don't recall which square because I was not present.

21

22

23 Q. [10:26:45] And if you can recall,

24 Roughly when was that?

25 A. [10:26:55] I think that might have been in May,

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1

2 Q. [10:27:26] And, Mr Witness, you said on page 19, line 13,

3

4

5 A. [10:27:55] I don't remember who that

6 person exactly was.

7

8

9 I don't remember this very well, but this is what I think.

10 Q. [10:28:28] And one final question on this photo, do you recall by any chance the

11 name of the man who is seated here in blue with his arm on his leg?

12 A. [10:29:00] I don't remember his name.

13 Q. [10:29:12] Did you see him after this or anything?

14 A. [10:29:18] I don't remember having met him, neither before nor after that.

15 Q. [10:29:30] And after that did you hear anything about him?

16 A. [10:29:38] I don't know. And I don't remember now whether I have heard

17 anything about him at all.

18 Q. [10:29:52] Thank you. Can you tell us what we see on the chair which goes

19 round the person who is sitting there in blue, I'm indicating it with my cursor.

20 A. [10:30:15] Yes, it's clear that he is -- he is chained using a rope to the chair.

21 That's a rope because he needs to be held firmly when he is amputated, because the

22 amputation would be very painful and we need everything you could use to hold him

23 firmly so that the amputation can happen.

24 MR DUTERTRE: [10:30:57](Interpretation) I'm going to show two other photographs,

25 Mr President. It won't take me very long. I can see we're coming to an end here,

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1 but I'll be able to close this chapter.

2 I would like to -- 0018 --

3 THE INTERPRETER: [10:31:13] Far too fast for the interpreter to catch.

4 MR DUTERTRE: [10:31:24](Interpretation)

5 Q. [10:31:24] Mr Witness, can you see 0018-2358, the photograph?

6 A. [10:31:36] Yes, but before answering this I'd like to go back to something I said
7 previously. [REDACTED]

8 [REDACTED] the first was in May after the announcement of the
9 independence of Azawad in Gao, and the second was after the killing of Nabil Abou
10 Alqama, so I don't remember. What I remember was that the event was on my way
11 to Timbuktu and it could have been [REDACTED]

12 As to the image, it's an image of the same person once amputated.

13 Q. [10:32:41] And so [REDACTED], according
14 to your recollection; is that correct?

15 A. [10:32:50] Yes, like -- it's likely that [REDACTED]

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 Q. [10:33:25] At an earlier stage you said that -- I might have misunderstand you,
20 Mr Witness, that [REDACTED]
21 [REDACTED] It might be just a translation problem. Please
22 clarify.

23 A. [10:33:44] What I said is that it was in [REDACTED]

24 [REDACTED]
25 [REDACTED]

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1 Q. [10:34:10] There we are, it's clear. Thank you. And I'm going to be showing
2 you the last photograph.

3

4

5 A. [10:34:32] Yes, and it shows the part of the hand that was amputated.

6 Q. [10:34:44] I have two rapid questions. What do you see on the foot of the
7 person wearing blue?

8 A. [10:34:54] That was a steel chain holding his feet.

9 Q. [10:35:07] And maybe you might know this or you might not, why is there a
10 white piece of rope binding the amputated hand to the foot of the victim?

11 A. [10:35:29] I don't know, but it seems that he was firmly chained with a rope so
12 that he does not move as a result of the pain.

13 PRESIDING JUDGE MINDUA: [10:35:46](Interpretation) Ms Taylor.

14 MS TAYLOR: [10:35:47] The witness was not present. These questions are going
15 completely into the territory of speculation.

16 PRESIDING JUDGE MINDUA: [10:36:03](Interpretation) Mr Prosecutor.

17 MR DUTERTRE: [10:36:04](Interpretation) No, we're just asking what his
18 understanding of the image is, whether he was present or not. He might have items
19 of information, and I have asked him whether he is in a position to answer, and he
20 answered giving us the information that he could. I think that's clear in the
21 transcript.

22 PRESIDING JUDGE MINDUA: [10:36:23](Interpretation) I think it is clear,
23 Ms Taylor. In the same way that he [REDACTED] he might have
24 received information. But, of course, it is up to the Chamber to assess the weight of
25 all this information that he is providing us with.

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Trial Hearing
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(Private Session)

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- 1 Mr Prosecutor.
- 2 MR DUTERTRE: [10:36:42](Interpretation) I think that we can take the break now in
- 3 view of the time. And thank you very much for the patience of the interpreters too.
- 4 PRESIDING JUDGE MINDUA: [10:36:52](Interpretation) Yes, you are right.
- 5 It is 10.35.
- 6 Normally we should take a break of 45 minutes to enable the cleaning people to do
- 7 their job, so we're going to take a break until 11.20.
- 8 The hearing is suspended.
- 9 THE COURT USHER: [10:37:17] All rise.
- 10 (Recess taken in private session at 10.37 a.m.)
- 11 (Upon resuming in open session at 11.20 a.m.)
- 12 THE COURT USHER: [11:20:27] All rise.
- 13 Please be seated.
- 14 PRESIDING JUDGE MINDUA: [11:20:56](Interpretation) Court is in session once
- 15 again.
- 16 And it's over to the Prosecutor, Mr Dutertre.
- 17 MR DUTERTRE: [11:21:06](Interpretation) Thank you, Mr President. And from the
- 18 get-go I would like to ask you to go into private session, please.
- 19 PRESIDING JUDGE MINDUA: [11:21:14](Interpretation) Private session, please,
- 20 madam courtroom officer.
- 21 (Private session at 11.21 a.m.)
- 22 THE COURT OFFICER: [11:21:28] We're in private session, Mr President.
- 23 PRESIDING JUDGE MINDUA: [11:21:34](Interpretation) Thank you very much,
- 24 courtroom officer.
- 25 Mr Prosecutor.

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(Private Session)

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1 MR DUTERTRE: [11:21:38](Interpretation) Thank you, Mr President.

2 I would like to play a video, 0018-0394, which lasts one minute and 46 seconds at tab
3 129, with a transcript 0069-2895 at tab 130. I shall be playing it without the sound.

4 (Viewing of the video excerpt)

5 MR DUTERTRE: [11:24:13](Interpretation)

6 Q. [11:24:14] [REDACTED] ?

7 A. [11:24:20] [REDACTED] Timbuktu towards the end of 2012
8 during a punishment by retaliation for murder. This was on someone from Ansar
9 Dine who had killed a civilian person and this execution was carried -- this was
10 carried out and these are the preparations ahead of the execution.

11 Q. [11:24:59] And do you know at what location or do you recall at what location in
12 Timbuktu this was?

13 A. [11:25:07] There was a very big square next to a Gaddafi hotel and close to the
14 high school. [REDACTED] I remember it.

15 Q. [11:25:30] Did you go [REDACTED]

16 [REDACTED] ?

17 A. [11:25:40] I was [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q. [11:26:14] And how did you -- or how were you informed of the implementation
21 of this execution?

22 A. [11:26:25] I think we were informed [REDACTED]

23 MR DUTERTRE: [11:26:37](Interpretation) We can go into public session, your
24 Honours.

25 PRESIDING JUDGE MINDUA: [11:26:43](Interpretation) Courtroom officer, open

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(Open Session)

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1 session, please.

2 (Open session at 11.26 a.m.)

3 THE COURT OFFICER: [11:26:56] We are back in open session, Mr President.

4 PRESIDING JUDGE MINDUA: [11:27:01](Interpretation) Thank you very much.

5 Prosecutor.

6 MR DUTERTRE: [11:27:04](Interpretation) I would like to make the most of this
7 opportunity to say that the last photo, the ERN is not on the transcript, it's 0018-2593.

8 This was a photograph, 0018-2573.

9 PRESIDING JUDGE MINDUA: [11:27:29](Interpretation) Is that the photograph of
10 the individual in blue?

11 MR DUTERTRE: [11:27:31](Interpretation) Yes, absolutely. Well, hang on, just let
12 me check that.

13 PRESIDING JUDGE MINDUA: [11:27:43](Interpretation) *Is that the amputated
14 hand?

15 MR DUTERTRE: [11:27:48] (Interpretation) Yes, that's right.

16 Q. [11:27:51] Mr Witness, can you please repeat in public what this item of
17 evidence that we have just viewed involves?

18 A. [11:28:05] You mean the image of the person with his -- the image of the
19 amputee?

20 Q. [11:28:17] No, no. We've gone from one thing to the other. We're jumping
21 around. Sorry about that. What we've just seen on the screen just a moment ago?

22 A. [11:28:29] [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 Q. [11:28:50] [REDACTED]

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Trial Hearing
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(Open Session)

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3 A. [11:29:11]

4 Q. [11:29:24] And why do you say that it's more than probable that it was the bench,
5 the judicial? What do you mean by that?

6 A. [11:29:39] Because I was not present during that hearing and I was not present
7 when such sentence was pronounced. Also, the judge, along with members of the
8 judicial bench, were present in the square and they pronounced the sentence before it
9 was carried out.

10 Q. [11:30:13] Very well. Who was in attendance from the armed group Ansar
11 Dine and AQMI on location when that execution took place?

12 A. [11:30:32] Everyone was present.

13 Q. [11:30:45] You're saying everybody, can you give names in particular of
14 individuals who were present, according to your recollection?

15 A. [11:30:57] The army was present, members of the Islamic police were present,
16 members of the *Hesbah* were present, also members of the judiciary, and others.

17 Q. [11:31:15] Who brought the convicted, the man who was convicted to death to
18 said location, Mr Witness?

19 A. [11:31:27] It was the Islamic police who brought him in an Islamic police car.

20 Q. [11:31:40] And upon arrival what happened, according to your recollection?

21 A. [11:31:47] When they arrived in the square, they took him out of the car. And I
22 remember the car was being opened from behind, and so he headed to the front part
23 before the car, and he prayed two *rak'ahs* before the execution was carried out.

24 Q. [11:32:24] Could you please clarify for everyone what pray two *rak'ah* means.
25 Maybe there are some individuals, notably myself, who are not familiar with such

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WITNESS: MLI-OTP-P-0065

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1 terminology?

2 A. [11:32:42] A *rak'ah* is the unit of the prayer that Muslims do. So you have the
3 prayer beginning with the bending, the kneeling. And if it's a mandatory prayer it
4 could be three, four or two *rak'ahs*, or if it's an optional kind of prayer it could be two
5 *rak'ahs* only, and so on and so forth.

6 Q. [11:33:25] And once he had finished praying, what happened, Mr Witness?

7 A. [11:33:36] When he finished praying, right after he finished praying, he stood
8 there, he was completely surrendered, ready to face death. He kneeled and someone
9 from behind came behind him and shot him in the heart but from behind. A direct
10 shot.

11 Q. [11:34:13] Did he die immediately, Mr Witness?

12 A. [11:34:23] No, he didn't die then. First he froze, as if dead. Apparently, he
13 expected a shot in the head. So he didn't die, he fell, he remained still for a little
14 while, then he moved, expressed pain, moaned, and then he was taken elsewhere.

15 Q. [11:35:05] Who decided to have him taken away, Mr Witness?

16 A. [11:35:13] The person overseeing the execution was Yahya Abou Al Hammam,
17 he gave the order for this to be carried out and he also gave the order for the person to
18 be taken elsewhere.

19 Q. [11:35:34] And subsequently, what happened to this individual who had been
20 shot in the heart from behind?

21 A. [11:35:47] The person who fired the shot fired one shot only. He was beside
22 Yahya. Then they inspected the person, they found that he was not dead yet. They
23 asked people away. They got -- they distanced people from him. And then they
24 brought a cover, covered him and took him somewhere else.

25 Q. [11:36:27] And after that, after having taken him away, what happened,

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(Open Session)

ICC-01/12-01/18

1 Mr Witness?

2 A. [11:36:34] According to the information, they took him and he was moaning and
3 struggling with the pain, and he was dying with a great deal of pain. At the
4 beginning he was patient and in a state of surrender, but he was overtaken by the
5 pain. He remained for about an hour or two hours, I cannot be specific on that. But
6 according to the information, other instructions were given to terminate his life with
7 two other shots, and so he died a little while after.

8 Q. [11:37:24] Who decided to have two further shots administered?

9 A. [11:37:32] I don't know, but I -- the -- those in charge of an execution could be
10 Yahya.

11 THE ARABIC INTERPRETER: [11:37:52] The statement in Arabic was not clear.

12 MR DUTERTRE: [11:38:00](Interpretation)

13 Q. [11:38:02] Mr Witness, could you please repeat your answer for the Arabic
14 interpreter to be able to hear it clearly.

15 A. [11:38:14] I do not know specifically who gave the order to fire the two shots
16 that decisively ended his life, but I know that the person in charge of carrying out
17 executions -- execution is Yahya Abou Al Hammam, so it is likely that Yahya Abou Al
18 Hammam is also the person who made that call to terminate the person's life.

19 MR DUTERTRE: [11:38:55](Interpretation) I would like to go into private session for
20 a moment, Mr President, because if I do it later we're going to lose the flow of things.

21 PRESIDING JUDGE MINDUA: [11:39:08](Interpretation) Private session, please,
22 courtroom officer.

23 (Private session at 11.39 a.m.)

24 THE COURT OFFICER: [11:39:17] We're in private session, Mr President.

25 PRESIDING JUDGE MINDUA: [11:39:22](Interpretation) Thank you very much.

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ICC-01/12-01/18

1 Prosecutor.

2 MR DUTERTRE: [11:39:25](Interpretation) Thank you, Mr President.

3 Q. [11:39:28] Mr Witness, we are back into private session. I'm going to page 30,
4 line 20, where it is indicated that: [REDACTED]

5 [REDACTED]

6 Could you please clarify for the Chamber [REDACTED]?

7 A. [11:39:57] [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 Q. [11:40:46] Thank you.

14 I'd like to make the most of the private session, Mr President, to bring in another item
15 of evidence, to slip it in, which is document 0001-7220. Maybe the courtroom officer
16 could please confidentially bring it up on the screen, 0001-7220.

17 (Speaks English) Evidence 1.

18 THE COURT OFFICER: [11:41:27](Overlapping speakers) Mr Prosecutor, the
19 document will be published on the evidence 1 channel.

20 MR DUTERTRE: [11:41:48](Interpretation) Maybe we could zoom in a little.

21 THE WITNESS: [11:41:58](Interpretation) It's clear.

22 MR DUTERTRE: [11:41:59](Interpretation)

23 Q. [11:42:00] Can you see this document, Mr Witness?

24 A. [11:42:03] Yes.

25 Q. [11:42:05] Could you tell us who this individual is whose photograph and name

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1 we see here?

2 A. [11:42:11]

3 [REDACTED], he was with me during the carrying out of
4 the sentence. [REDACTED]

5 [REDACTED] in Timbuktu. [REDACTED]

6 [REDACTED]

7 Q. [11:42:46] Thank you.

8 We can come out of private session now, Mr President, your Honours.

9 PRESIDING JUDGE MINDUA: [11:42:54](Interpretation) Open session, please,
10 courtroom officer.

11 MR DUTERTRE: [11:43:01](Interpretation) Could you please go back to evidence 2,
12 Mr Witness.

13 (Open session at 11.43 a.m.)

14 THE COURT OFFICER: [11:43:24] We are in open session, Mr President.

15 PRESIDING JUDGE MINDUA: [11:43:28](Interpretation) Thank you very much.
16 Prosecutor, please.

17 MR DUTERTRE: [11:43:31](Interpretation) Thank you, Mr President.

18 Q. [11:43:41] Mr Witness, what is the building, white in form, that we see in the
19 background of the image 00:00:48:24? Maybe I can play a few seconds of it.

20 A. [11:43:57] I cannot determine that. I do not remember.

21 Q. [11:44:10] I'm still at 00:00:48:24, and if you can pay attention, can you see who is
22 that person walking from the right to the left of the screen? And I'm stopping at
23 00:00:53:10.

24 A. [11:44:33] That is Talha.

25 Q. [11:44:50] I've come back to 00:00:38:06. This is a better image of the building

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(Open Session)

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WITNESS: MLI-OTP-P-0065

1 that I was talking about. Does that ring more of a bell now or not?

2 A. [11:45:05] I cannot remember.

3 Q. [11:45:15] Mr Witness, if you were given a satellite map as yesterday, would you
4 be able to locate on that map the location where the execution took place? Could we
5 try that?

6 A. [11:45:32] I will try to do so.

7 MR DUTERTRE: [11:45:39](Interpretation) Can we proceed or is it on paper?

8 THE COURT OFFICER: [11:45:44] We should be able to try to display on the
9 SMARTBoard. If you could please provide us with the ERN number.

10 MR DUTERTRE: [11:45:55](Interpretation) 0040-0410, which is at tab 22.

11 (Microphone not activated)

12 THE COURT OFFICER: [11:46:35] Indeed.

13 MR DUTERTRE: [11:47:07](Interpretation) Perhaps we can zoom in, in order to
14 avoid showing the writing at the bottom which should not be shown. Maybe bring
15 it down a bit.

16 Q. [11:47:24] Mr Witness, are you able to locate the site of the execution? Mark it
17 with a pen if it's on this map.

18 A. [11:48:11] The pen does not seem to be usable.

19 MR DUTERTRE: [11:48:26](Interpretation) I've also got a paper version that we
20 could use.

21 THE WITNESS: [11:49:35](No interpretation)

22 (Speaks English) It is only connecting with the other.

23 THE COURT OFFICER: [11:49:48] Unfortunately, we will need to use the paper
24 version that we will first place on the retro projector so that the parties and
25 participants can see the image the witness will see. Then the witness will annotate

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1 that document and we will be placing it back on the retro projector.

2 MR DUTERTRE: [11:50:19](Interpretation) And we will make sure that the relevant
3 parts are not visible.

4 THE COURT OFFICER: [11:50:36] The document will be displayed on a confidential
5 basis anyway.

6 MR DUTERTRE: [11:51:19](Interpretation) Perhaps we could give this a number.

7 PRESIDING JUDGE MINDUA: (Interpretation) Yes. Please register this with a
8 number.

9 THE COURT OFFICER: [11:51:33] The document will bear the number
10 MLI-REG-0001-0010.

11 PRESIDING JUDGE MINDUA: [11:51:56](Interpretation) Thank you.
12 Prosecution.

13 MR DUTERTRE: [11:52:00](Interpretation) I think we're still in open session, are we
14 not?

15 PRESIDING JUDGE MINDUA: [11:52:05](Interpretation) Yes, we are.

16 MR DUTERTRE: (Interpretation)

17 Q. [11:52:08] I'm going to continue, ask you to comment on 0018-0394 and at
18 timestamp 00:1:12:02 (sic). To what -- which organ does the person we see from the
19 back belong?

20 A. [11:52:36] It's the Islamic police.

21 MR DUTERTRE: [11:52:44](Interpretation) If we could now move into private
22 session, please, your Honour.

23 PRESIDING JUDGE MINDUA: [11:52:49](Interpretation) Court officer, private
24 session, please.

25 (Private session at 11.52 a.m.)

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Trial Hearing
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(Private Session)

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1 THE COURT OFFICER: [11:53:01] We're in private session, Mr President.
2 PRESIDING JUDGE MINDUA: [11:53:08](Interpretation) Thank you, Prosecutor.
3 MR DUTERTRE: [11:53:09](Interpretation) Thank you.
4 I now show a photo from tab 315.

5 Q. [11:53:26] Do you recognise this photo, Mr Witness?

6 A. [11:53:30] That's the -- that's an image from the same event [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 THE ARABIC INTERPRETER: [11:53:58] There was a tiny part in the witness's
11 statement that we could not catch.

12 MR DUTERTRE: [11:54:11](Interpretation)

13 Q. [11:54:14] Mr Witness, could you please repeat your answer. The interpreter
14 did not catch everything.

15 And before you repeat it, it's photograph 0018-2538, for the transcript.

16 A. [11:54:34] Yes, [REDACTED]

17 [REDACTED] Talha and
18 another person. [REDACTED]

19 [REDACTED]

20 Q. [11:55:10] Thank you. You're talking about Talha, is that Talha on the left or
21 the right?

22 A. [11:55:21] The person to the left, it's the person to the left.

23 Q. [11:55:36] [REDACTED]

24 [REDACTED]?

25 A. [11:55:44] [REDACTED]

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1 Q. [11:56:02] [REDACTED]

2 [REDACTED] ?

3 A. [11:56:19] [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q. [11:56:48] One moment there.

7 Very well. Since we're still in a private session, was that before or after the
8 execution?

9 A. [11:57:05] [REDACTED] before the execution, when preparations were
10 taking place for the execution.

11 Q. [11:57:21] So was this before the person due to die was there or after? Before
12 he'd arrived or after?

13 A. [11:57:34] This was [REDACTED] immediately after [REDACTED] where
14 execution was to be taking place - during preparations and security preparations.
15 And I do not remember whether the person arrived before or after that.

16 Q. [11:58:04] (Microphone not activated)

17 I'd like to show the photo 0078. It will be appearing on evidence 1. 0018-2438.

18 Can you see the image, Mr Witness?

19 A. [11:59:39] No. There's something wrong with evidence channel 1. Now I see
20 it. Now I see it clearly.

21 Q. [11:59:58] Thank you. Who is the short person on the extreme left of the
22 picture?

23 A. [12:00:14] I don't know.

24 Q. [12:00:24] And the person we see from the back with the green turban?

25 A. [12:00:33] This, as it seems, is Abdallah -- Abou Bacar Chinguetti.

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- 1 Q. [12:00:47] [REDACTED]
- 2 [REDACTED]?
- 3 A. [12:01:00] No, I do not remember.
- 4 Q. [12:01:08] Thank you. I'd now like to show a video, 0018-0649, which is 13
- 5 seconds long and is at tab 72. Tab 13 (sic). The transcript is 0069-1449 at tab 73 and
- 6 the translation 0078-1886 at tab 74.
- 7 And we'll play it without sound.
- 8 (Viewing of the video excerpt)
- 9 MR DUTERTRE: [12:02:31](Interpretation)
- 10 Q. [12:02:32] Mr Witness, do you recognise these images?
- 11 A. [12:02:37] Yes. These are from the same event. [REDACTED]
- 12 Q. [12:02:56] I will now play it with sound.
- 13 (Viewing of the video excerpt)
- 14 MR DUTERTRE: [12:03:11](Interpretation) No sound.
- 15 With sound.
- 16 (Viewing of the video excerpt)
- 17 MR DUTERTRE: [12:03:51](Interpretation) We can move back into public session,
- 18 your Honours.
- 19 PRESIDING JUDGE MINDUA: [12:03:56](Interpretation) Public session, please
- 20 court officer.
- 21 (Open session at 12.04 p.m.)
- 22 THE COURT OFFICER: [12:04:04] We are in open session, Mr President.
- 23 PRESIDING JUDGE MINDUA: [12:04:14](Interpretation) Thank you very much.
- 24 Prosecution.
- 25 MR DUTERTRE: [12:04:18](Interpretation) Thank you, your Honour.

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Trial Hearing

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1 Q. [12:04:22] What is this vehicle in the middle there, with its door open?

2 A. [12:04:30] I think that's the Islamic police car and everyone standing here,
3 behind the car, are from the Islamic police.

4 Q. [12:04:49] On the back-right door, there's a sort of sticker or notice, not very
5 good quality, but do you know what it says?

6 A. [12:05:02] Yes, that's the logo or the banner of the Islamic police and it's a black
7 banner on which is written, "There's no God but God".

8 Q. [12:05:34] Still at 00:00:00:00, in the opening of the back door, there is an
9 individual with a sort of yellowish turban. What is he wearing over his shoulder?

10 A. [12:05:55] That's a Kalashnikov rifle.

11 Q. [12:06:17] I'm now at 00:00:13:00. Who is the person facing us on the left half of
12 the screen with this sandy yellow-coloured turban?

13 A. [12:06:38] It's Al Hassan.

14 Q. [12:06:45] And what is the dark jacket that he's wearing?

15 A. [12:06:51] That's the Islamic police vest.

16 MR DUTERTRE: [12:07:07](Interpretation) I'd now like to move into private session,
17 your Honour.

18 PRESIDING JUDGE MINDUA: [12:07:13](Interpretation) Private session, please,
19 court officer.

20 (Private session at 12.07 p.m.)

21 THE COURT OFFICER: [12:07:32] We are in private session, Mr President.

22 PRESIDING JUDGE MINDUA: [12:07:40](Interpretation) Thank you, court officer.
23 Prosecution.

24 MR DUTERTRE: [12:07:45](Interpretation)

25 Q. [12:07:49] Mr Witness, I've had my attention drawn to one point. On the

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1 previous video, the sign on the vehicle, is that the flag of Ansar Dine or of the Islamic
2 police?

3 A. [12:08:15] It's Ansar Dine and Al-Qaeda, together.

4 Q. [12:08:26] Thank you. So I'd now like to show 0018-0654, which is 32 seconds
5 long and is at tab 75. And the transcript is at tab 77 -- and 76 is the transcript.

6 Do you recognise these images, Mr Witness?

7 A. [12:09:33] Yes, [REDACTED] the same event.

8 MR DUTERTRE: [12:09:46](Interpretation) Now with sound.

9 (Viewing of the video excerpt)

10 THE INTERPRETER: [12:10:10] (Interpretation of the video excerpt)

11 "... and the Messenger ... to give justice and repel the injustice and to obey God

12 Almighty and his Messenger Mohamed, that peace and the greetings of Allah be
13 upon him."

14 MR DUTERTRE: [12:10:33](Interpretation) We can now move back into public
15 session.

16 PRESIDING JUDGE MINDUA: [12:10:37](Interpretation) Public session, please,
17 court officer.

18 (Open session at 12.10 p.m.)

19 THE COURT OFFICER: [12:10:51] We're in open session, Mr President.

20 PRESIDING JUDGE MINDUA: [12:10:57](Interpretation) Thank you.

21 MR DUTERTRE: [12:11:01](Interpretation)

22 Q. [12:11:02] Mr Witness, please could you tell us what's happening at that point?

23 A. [12:11:08] Here, this is an announcement that there will be a punishment by
24 retaliation for murder here about to be executed.

25 Q. [12:11:39] So this is the same event that we saw earlier; is that correct?

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Trial Hearing
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1 A. [12:11:47] Yes.

2 Q. [12:11:50] I'm now at 00:00:01:16. Can you tell us who is the person in the
3 centre of the image, who is holding papers in his hands with a white turban and a
4 dark brown boubou, and who is speaking into the loud speaker?

5 A. [12:12:23] That's Mr Al Faqi.

6 Q. [12:12:45] At 00:00:09:00, who is the person on the left of the screen in a light
7 beige boubou and dark -- and a brown turban?

8 A. [12:13:02] It's Radwan.

9 MR DUTERTRE: [12:13:08](Interpretation) I'd like to move again into private session,
10 please, your Honour.

11 PRESIDING JUDGE MINDUA: [12:13:15](Interpretation) Court officer, private
12 session, please.

13 (Private session at 12.13 p.m.)

14 THE COURT OFFICER: [12:13:27] We're in private session.

15 PRESIDING JUDGE MINDUA: [12:13:33](Interpretation) Thank you very much.
16 Prosecution.

17 MR DUTERTRE: [12:13:36](Interpretation) Thank you, your Honour. I am now
18 looking at video 0018-0655. And the transcript is 0033-5577. It's at tab 78. The
19 transcript at 90 (sic). And the translation, 0033-5482, is at tab 79.

20 And I'll show it without sound first.

21 (Viewing of the video excerpt)

22 MR DUTERTRE: [12:15:09](Interpretation)

23 Q. [12:15:11] Do you recognise these images, Mr Witness?

24 A. [12:15:14] It's -- these are the same images. 

25 

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1 Q. [12:15:28] [REDACTED]

2 A. [12:15:32] [REDACTED].

3 MR DUTERTRE: [12:15:40](Interpretation) Now I'll play it with sound, asking the
4 interpreters to read the transcript.

5 (Viewing of the video excerpt)

6 THE INTERPRETER: [12:15:57] (Interpretation of the video excerpt)

7 "Those of the blood -- the law of blood have decided to valorize their rights and to
8 refuse to pardon or abandon their right. This is why we have helped them to obtain
9 their rights in virtue of the law of God Almighty: 'Whoever is killed unjustly, we
10 will have given power to their nearest.' Today, this is what we are doing, while fully
11 aware that this saves lives of people as we have been taught by God Almighty by
12 saying: 'This is what you will have for the preservation of life.'"

13 MR DUTERTRE: [12:16:47](Interpretation)

14 Q. [12:16:49] Mr Witness, could you please clarify what he means by saying, in
15 French: Those who hold the blood of life have -- the law of blood have decided to
16 valorize this and to refuse pardon?

17 A. [12:17:12] This means that the execution is being carried out at the request of the
18 blood owners of the person who was killed, and, that is, his mother and the family.
19 And these refused to grant -- these refused to forgive the person against whom the
20 execution will be carried out.

21 MR DUTERTRE: [12:17:49](Interpretation) Thank you.

22 We can move back into public session, Mr President, your Honours.

23 PRESIDING JUDGE MINDUA: [12:17:55](Interpretation) Madam court officer,
24 please, open session.

25 (Open session at 12.17 p.m.)

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Trial Hearing
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- 1 THE COURT OFFICER: [12:18:01] We are back in open session, Mr President.
- 2 PRESIDING JUDGE MINDUA: [12:18:12](Interpretation) Thank you very much.
- 3 Mr Prosecutor.
- 4 MR DUTERTRE: [12:18:15](Interpretation) Thank you, Mr President.
- 5 Q. [12:18:17] Mr Witness, who is the individual holding the papers and who has
- 6 the loudspeaker just in front of his face?
- 7 A. [12:18:29] That's Mr Al Faqi.
- 8 Q. [12:18:36] And who is the individual just to his right, when we look at the image,
- 9 who is profile, with a black and white turban and who is holding out the loudspeaker
- 10 for him?
- 11 A. [12:18:53] I don't know him.
- 12 Q. [12:19:01] To the left-hand side, we can see somebody on a vehicle holding a flag.
- 13 What is that flag, Mr Witness?
- 14 A. [12:19:12] That's the Al-Qaeda banner.
- 15 PRESIDING JUDGE MINDUA: [12:19:39](Interpretation) Mr Prosecutor, I just have
- 16 a clarification question.
- 17 Earlier, Mr Witness, we saw a banner also with -- or a flag also with inscriptions.
- 18 You said it was Al-Qaeda, Ansar Dine flag. And now we have a white one with
- 19 black writing on it and, once again, you say that it's Al-Qaeda.
- 20 Is there no difference between the two?
- 21 THE WITNESS: [12:20:10](Interpretation) There isn't much difference. But the
- 22 black banner is used by everyone, including Al-Qaeda. But this white banner, in
- 23 particular, was special to Al-Qaeda in Afghanistan.
- 24 PRESIDING JUDGE MINDUA: [12:20:34](Interpretation) Thank you very much.
- 25 That's very clear.

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1 Prosecutor.

2 MR DUTERTRE: [12:20:39](Interpretation) Thank you, Mr President.

3 Q. [12:20:43] Now, Mr Witness, between Mr Al Faqi, who is hidden by the
4 loudspeaker, and the individual who is holding the loudspeaker for him, we can see
5 another individual with a dark-coloured turban. Do you know who that is?

6 A. [12:21:08] Yes, that's Judge Houka Houka.

7 Q. [12:21:32] I am now at 00:00:16:03. And there was an individual who was
8 going -- walking from the right to the left of the screen, and who was to be found on
9 the left-hand side of Mr Al Faqi when we're looking at the image.
10 Do you know who that is?

11 A. [12:21:58] Yes, that's Talha.

12 Q. [12:22:10] Thank you.

13 MR DUTERTRE: [12:22:11](Interpretation) Mr President, I'm looking at the hour and
14 I'm in your hands.

15 PRESIDING JUDGE MINDUA: [12:22:17](Interpretation) You are right. We shall
16 now rise for the luncheon break. And we shall reconvene at 13.30, half past 1.
17 Court is suspended.

18 THE COURT USHER: [12:22:39] All rise.

19 (Recess taken at 12.22 p.m.)

20 (Upon resuming in open session at 1.32 p.m.)

21 THE COURT USHER: [13:32:24] All rise.

22 Please be seated.

23 PRESIDING JUDGE MINDUA: [13:32:50](Interpretation) Court is in session once
24 again.

25 We shall continue with the examination-in-chief on the part of the Prosecution.

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1 Mr Dutertre, over to you.

2 MR DUTERTRE: [13:33:05](Interpretation) Thank you, Mr President. I would like
3 to immediately go into private session, Mr President.

4 PRESIDING JUDGE MINDUA: [13:33:15](Interpretation) Madam courtroom officer,
5 please, private session.

6 (Private session at 1.33 p.m.)

7 THE COURT OFFICER: [13:33:27] We're in private session, Mr President.

8 PRESIDING JUDGE MINDUA: [13:33:33](Interpretation) Thank you very much.
9 Mr Prosecutor.

10 MR DUTERTRE: [13:33:38](Interpretation) 0018-065 --

11 THE INTERPRETER: [13:33:45] The interpreter did not catch it.

12 MR DUTERTRE: [13:33:51](Interpretation) In tab 1. With the transcript 0069-0496,
13 and that's tab 2.

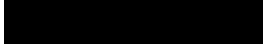
14 THE INTERPRETER: [13:34:13] Could counsel please be requested to say the
15 numbers a little bit more slowly. Thank you.

16 MR DUTERTRE: [13:34:21](Interpretation) I'm going to play it without the sound.
17 (Viewing of the video excerpt)

18 MR DUTERTRE: [13:34:35](Interpretation)

19 Q. [13:34:35] Mr Witness, do you recognise these images?

20 A. [13:34:40] Yes, these images are from the same retaliatory punishment 

21 

22 MR DUTERTRE: [13:35:00] I'm going to play it with the sound and I'm waiting for
23 the sign from the courtroom officer.

24 THE INTERPRETER: [13:35:07] Correction from the English booth: It's
25 tab 82, 0069-0486.

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1 (Viewing of the video excerpt)

2 MR DUTERTRE: [13:35:33](Interpretation)

3 Q. [13:35:36] Mr Witness, could you describe to us what is going on at that moment
4 in time?

5 A. [13:35:42] Yes, this person that was brought to be executed, here he is being
6 taken by Mr Al Hassan to the location where he will pray two rak'ahs before being
7 executed.

8 Q. [13:36:09] Do you by any chance remember the name of the individual who was
9 about to be executed?

10 A. [13:36:16] No, I do not remember.

11 MR DUTERTRE: [13:36:26] We can go back into open session, Mr President.

12 PRESIDING JUDGE MINDUA: [13:36:29](Interpretation) Open session, please,
13 madam courtroom officer.

14 (Open session at 1.36 p.m.)

15 THE COURT OFFICER: [13:36:43] We are in open session, Mr President.

16 PRESIDING JUDGE MINDUA: [13:36:49](Interpretation) Thank you very much.
17 Mr Prosecutor.

18 MR DUTERTRE: [13:36:54](Interpretation) Thank you, Mr President.

19 Q. [13:37:00] I am 00:00:08:04. And for the transcript, Mr Witness, can you tell us
20 who the individual is to the right, with a yellow turban, sporting a jacket and who is
21 holding the other individual by the arm?

22 A. [13:37:22] That's Mr Al Hassan.

23 Q. [13:37:34] Thank you.

24 MR DUTERTRE: [13:37:35](Interpretation) I'd like to go back into open
25 session -- sorry, I'd like to go back into private session now, please.

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(Private Session)

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- 1 PRESIDING JUDGE MINDUA: [13:37:39](Interpretation) Please, private session,
2 madam courtroom officer.
3 (Private session at 1.37 p.m.)
4 THE COURT OFFICER: [13:37:55] We are in private session.
5 PRESIDING JUDGE MINDUA: [13:37:59](Interpretation) Thank you very much.
6 Mr Prosecutor.
7 MR DUTERTRE: [13:38:02](Interpretation) Thank you, Mr President.
8 I'm going to go on to a video that we have already viewed, but another excerpt
9 thereon, [REDACTED] tab 34. With the transcript to be found 0028-0839, tab 35. And
10 I'm going to be playing 11 seconds of it, from [REDACTED] without the sound.
11 (Viewing of the video excerpt)
12 MR DUTERTRE: [13:39:35](Interpretation) I stopped at [REDACTED]
13 Q. [13:39:46] Mr Witness, do you recognise these images?
14 A. [13:39:51] Yes. These are the -- this is the same event [REDACTED] This
15 person here is praying before his execution.
16 Q. [13:40:18] (Microphone not activated)
17 THE INTERPRETER: [13:40:19] Microphone, please.
18 MR DUTERTRE: [13:40:21](Interpretation) I'm going to move on to another item,
19 Mr President. This is a photograph, 0018-2445, tab 87.
20 Q. [13:40:55] Do you recognise this photograph, Mr Witness?
21 A. [13:40:59] Yes. [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 MR DUTERTRE: [13:41:26](Interpretation) We can go back into open session,
25 Mr President, your Honours.

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Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0065

- 1 PRESIDING JUDGE MINDUA: [13:41:31](Interpretation) Open session, please,
2 courtroom officer.
3 (Open session at 1.41 p.m.)
4 THE COURT OFFICER: [13:41:39] We're in open session, Mr President.
5 PRESIDING JUDGE MINDUA: [13:41:47](Interpretation) Thank you very much.
6 Prosecutor, please.
7 MR DUTERTRE: [13:41:50](Interpretation) Thank you, Mr President.
8 Q. [13:41:52] Mr Witness, do you know the individual at the centre of the image
9 who is facing us and who is wearing a brown turban?
10 A. [13:42:13] Yes. This person is the one who carried out the execution. He fired
11 at the individual who was being executed.
12 Q. [13:42:35] Do you by any chance know whether he belongs to a battalion or an
13 organ in Timbuktu at the time?
14 A. [13:42:46] He is certainly from Al-Qaeda, and I think he belonged to the
15 Tariq Ibn Ziyad battalion headed by Abdelhamid Abou Zeid. This is what I think.
16 Q. [13:43:08] And who is the person to the far left of the image with a green turban
17 who we can see from profile?
18 A. [13:43:18] That's Abou Bacar Al Chinguetti.
19 Q. [13:43:30] To come back to the person in the centre we were talking about a
20 moment ago, do you know whether he had a role in the amputation we saw this
21 morning or not?
22 A. [13:43:42] According to the information, it's him who also carried out the
23 amputation.
24 MR DUTERTRE: [13:43:55](Interpretation) Could we go back into private session,
25 Mr President.

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1 PRESIDING JUDGE MINDUA: [13:43:59](Interpretation) Private session, please,
2 courtroom officer.

3 (Private session at 1.44 p.m.)

4 THE COURT OFFICER: [13:44:16] We're in private session, Mr President.

5 PRESIDING JUDGE MINDUA: [13:44:18](Interpretation) Thank you very much.

6 Mr Prosecutor.

7 MR DUTERTRE: [13:44:21](Interpretation) Thank you, Mr President.

8 Q. [13:44:22] Mr Witness, can you tell us where that information comes from as to
9 the involvement of said individual in the amputation scene that we saw this morning?

10 A. [13:44:44] I don't remember exactly who told me that, [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Q. [13:45:27] Very well. And what were you talking about in terms of the
16 implementation of the punishment?

17 A. [13:45:40] I don't remember exactly, but during those days everyone was talking
18 about retaliatory punishment and that was the subject brought up in all discussions.

19 Q. [13:46:02] And are you in a position to say, according to your observations and
20 knowledge, whether the people who took part in punishments were in any way
21 proud of doing so?

22 A. [13:46:19] Retaliatory punishment is different from other punishments. The
23 other punishments, yes, they would take pride in them. But according to what was
24 being said, when it comes to retaliatory punishment, they tried to offer the mother of
25 the person, they offered her money so that she would forgive and they made all that's

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1 possible to avoid retaliatory punishment. No one was excited about that
2 punishment among them. They were actually sorry about that and they expressed
3 that on many occasions about these instances.
4 Q. [13:47:10] Could you clarify what you learnt or gleaned with regard to the
5 efforts made to give the mother money? Could you provide details? The mother of
6 the victim who had been killed, the consequence of which the execution of this person
7 has been carried out.

8 A. [13:47:39] The mother was present, along with other members of the family, [REDACTED]
9 [REDACTED] members of Al-Qaeda and Ansar Dine, that they
10 offered money as a retribution so that she would forgive, and yet she said no. And
11 according to the information that was -- that circulated at the time, is that the imams
12 in Timbuktu, and the central government also, in Bamako, offered secretly double or
13 manifold the amounts that Al-Qaeda had offered because they, they wanted to -- the
14 execution to take place so that the condemnation of the groups would be stronger at
15 the national level and this would help foster international support for liberating the
16 northern part of Mali. And I remember that the figure was 30 million. This was the
17 figure offered. And according to the talk circulating among the people then was that
18 officials in Bamako, through the imams in Timbuktu, said that we can double the
19 amount that the groups in Timbuktu claimed to be willing to pay, except if --

20 THE ARABIC INTERPRETER: [13:49:04] Sentence unfinished.

21 THE WITNESS: [13:49:06](Interpretation) [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 MR DUTERTRE: [13:49:31](Interpretation)

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1 Q. [13:49:33] Very well. So there's a distinction between execution to death and
2 the other types of punishment. Could you come back on the pride that could be
3 taken by those taking part in other types of punishment?

4 A. [13:49:50] Their mission, first and foremost, is to replace the laws, the
5 constitutional laws with Islamic Sharia. And Islamic Sharia, its implementation is
6 the implementation of punishments, such as the punishments for drinking alcohol
7 and adultery, and also retaliatory punishment. They were sorry that this was going
8 to happen. They did not want that to happen. And it's worth noting here that this
9 person, this member from Ansar Dine who was not a civilian, they think that with all
10 this, they think they were doing the right thing. They were implementing God's law
11 on God's land on God's people. That was their goal and their primary slogan.

12 MR DUTERTRE: [13:51:01](Interpretation) One moment, please. I'm just having a
13 look at the transcript.

14 Q. [13:51:13] And to come back specifically to this issue of reprisals and payment,
15 who is the -- supposed to pay the family of the victim with a view to obtaining
16 pardon?

17 A. [13:51:30] I don't know specifically, but when we say that the groups -- the
18 group in Timbuktu, which was Al-Qaeda, was going to pay, likely then that -- then if
19 it's the group, then the person who would pay would be Abdelhamid Abou Zeid.
20 And I say Abdelhamid Abou Zeid because some information said that Abdelhamid
21 Abou Zeid was like the financial officer of the group in Timbuktu. I am not sure of
22 that. [REDACTED]

23 Q. [13:52:21] Very well. I might rephrase my question, but this was a useful
24 clarification.

25 Now, having made an abstraction of a group present, who should usually give money

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1 or offer money to the family of the victim?

2 A. [13:52:41] Usually the *diya* or retributive sum is -- would usually be paid by the
3 family or the -- the family of the murderer, [REDACTED]

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

7 [REDACTED]

8 MR DUTERTRE: [13:53:31](Interpretation) Mr President, I'd now like to present a
9 video, 0018-0669, which is at tab 316, with a transcript 0069-1454, tab 317, and
10 0069-7584, tab 318.

11 It's quite short, approximately 10 seconds. I'm going to play it.

12 (Viewing of the video excerpt)

13 MR DUTERTRE: [13:54:34](Interpretation)

14 Q. [13:54:35] [REDACTED]?

15 A. [13:54:39] [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 Q. [13:55:13] I am at timestamp 00:00:07:11, [REDACTED]
19 [REDACTED]?

20 A. [13:55:29] [REDACTED]

21 MR DUTERTRE: [13:55:44](Interpretation) Now, Mr President, I would like to show
22 a document, 0018-1403, which is at tab 339. I'm going to ask the witness to take the
23 second binder and go to tab 339.

24 THE COURT OFFICER: [13:56:21] The document will be displayed on the evidence
25 1 channel.

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1 MR DUTERTRE: [13:56:57](Interpretation) Maybe we could assist the witness in
2 manipulating or manoeuvring his binder, because there are so many pieces of paper
3 that it's getting stuck.

4 Q. [13:57:15] Mr Witness, it is written -- this is an article, just to the left: Text and
5 photo from [REDACTED]

6 [REDACTED]?

7 A. [13:57:39] [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q. [13:58:14] And the article commences saying: This afternoon, an ordinary
12 afternoon in mid-October.

13 Does that remind you of the moment in time, approximately, when this execution
14 took place?

15 A. [13:58:39] Yes, I know that the execution took place at the end of 2012 and I
16 know that it happened after the *Asr* prayer, between the *Asr* prayer and sunset
17 because there was sunset while we were there.

18 MR DUTERTRE: [13:59:18] Unfortunately, I need to continue in private session,
19 Mr President, to move on to something else. And this is a photograph, 0018-2593, at
20 tab 66.

21 THE COURT OFFICER: [13:59:48] The document will be displayed on the evidence
22 2 channel.

23 MR DUTERTRE: [13:59:58](Interpretation)

24 Q. [13:59:59] [REDACTED]?

25 A. [14:00:05] [REDACTED]

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1

[REDACTED]

2 Q. [14:00:24] And where are we located here, in which town, Mr Witness?

3 A. [14:00:35] This is certainly Timbuktu.

4 Q. [14:00:43] Are you able to see what it says on the small white sign here in the
5 background?

6 A. [14:01:05] It is clear that this is the same plate pointing the way to Abaradjou,
7 the peace monument, in French *Monument de la paix*.

8 MR DUTERTRE: [14:01:29](Interpretation) We can move into public session, your
9 Honour.

10 PRESIDING JUDGE MINDUA: [14:01:38](Interpretation) Public session, please,
11 court officer.

12 (Open session at 2.01 p.m.)

13 THE COURT OFFICER: [14:01:47] We're in open session, Mr President.

14 PRESIDING JUDGE MINDUA: [14:01:53](Interpretation) Thank you very much.
15 Prosecution.

16 MR DUTERTRE: [14:01:58](Interpretation) Thank you, your Honour.

17 Q. [14:02:02] Do you know when this took place, this event, roughly?

18 A. [14:02:08] I cannot determine the month, but this was in 2012 during the groups'
19 occupation of Timbuktu.

20 Q. [14:02:28] And do you know roughly when, beginning, the end, middle?

21 A. [14:02:39] I cannot be specific because whipping events happened throughout
22 the year, so it's very difficult to determine when exactly.

23 Q. [14:03:01] When you said there were floggings throughout the year, can you say
24 how often they would happen?

25 A. [14:03:15] Sir, whenever there was a -- whenever it was proven that someone

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1 drank alcohol, or committed adultery, or whenever there was a *tazir* punishment,
2 there would be whipping in a public square, usually the square adjacent to the
3 *artisanat* building, which is the closest square to the Islamic police station, as well as to
4 the *Hesbah*.

5 Q. [14:04:12] Mr Witness, you used a word that not everybody would understand.
6 This word "*tazir*", could you perhaps clarify what *tazir* means so everybody can
7 understand, if you can?

8 A. [14:04:29] *Tazir* is the punishment decided by the judge or the ruler against
9 someone, because punishments are known. For example, adultery is punishable by
10 a hundred lashes, or stoning to death for someone who is -- who was previously
11 married, or 50 lashes for someone who drinks alcohol. But if -- but sometimes in
12 adultery you have all the proof that adultery did happen, but you cannot prove it
13 unless with confession or with pregnancy. So if the judge is sure that there was an
14 adultery but he did not have the enough proof for it, he could decide the punishment
15 on the basis of *tazir*. So, if someone commits something wrong, the judge can
16 determine the punishment, a punishment outside the scope of Koranically ordained
17 punishments. So that other kind of punishments is called *tazir* punishments.

18 Q. [14:05:52] And when you say judge or the leader, leader of what?

19 A. [14:06:00] For example, the ruler of the region, or the assigned scope of things.
20 For example, the head of *Hesbah*, or the person controlling the entire city. If a soldier
21 commits something wrong, that ruler can decide a *tazir* punishment against him, for
22 example, a number of lashes or a type of punishment that he decides.

23 MR DUTERTRE: [14:06:37](Interpretation) (Overlapping speakers) There was no
24 translation. I fear I may have to ask you to repeat.

25 PRESIDING JUDGE MINDUA: [14:07:07](Interpretation) What's happening? Are

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1 you we going to ask the witness to repeat or are we going to wait for the

2 interpretation into French and English?

3 THE COURT OFFICER: [14:07:26] Mr President, I see that the answer of the witness

4 has been interpreted into English. Maybe the French booth could interpret into

5 French from the transcript.

6 MR DUTERTRE: [14:08:07](Interpretation)

7 Q. [14:08:09] You talked about *Hesbah*, were there in the police people who could

8 decide on a *tazir*?

9 A. [14:08:24] As far as I know, *tazir* is a judge-discretionary decision on things

10 where punishments are not previously regulated or decided. These are also

11 decisions in the hands of structures and leaders. And since there is a general

12 leadership and that are substructures and divisions, certainly the heads of those

13 structures and divisions are entitled to decide punishments on their subordinates

14 should there be a wrongdoing that is worthy of punishment.

15 Q. [14:09:15] Were the -- do the regular punishments have a name, those that are

16 already decided on?

17 A. [14:09:26] Yes, these regulated punishments are called, in Arabic *hududs*.

18 Q. [14:09:41] So to come back to what we see here, could you tell us what's

19 happening here.

20 A. [14:09:53] Here a lady is being whipped. I don't know for what reason and

21 I don't know who she is.

22 Q. [14:10:12] The person on the far left of the screen with their right arm raised, do

23 you know who this person is?

24 A. [14:10:26] This is Abou Thar.

25 Q. [14:10:37] And what is he doing there?

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- 1 A. [14:10:39] Here he is whipping a lady in this public square before everyone
2 inside the city of Timbuktu.
- 3 I would like to add an observation. We have spoken about the organisational aspect
4 of Al-Qaeda and these groups. I think there is a point that we have not raised
5 previously and it concerns a social and organisational aspect and it concerns why do
6 the sons of Timbuktu join the jihadist groups, and I am willing to explain this if you
7 are interested.
- 8 Q. [14:11:34] Yes, interesting. I note this and we will definitely come back to this.
9 One final question: Does *tazir*, is that a punishment only for civilians or also for
10 soldiers, or who can be subject to a *tazir* punishment?
- 11 A. [14:12:01] There are types of *tazir*. There is the *tazir* in the form of a judicial
12 punishment, and I can cite an example of that. And there is the other organisational
13 one which is an organisational kind of measure between the leader and his soldiers.
14 The *tazir* decided by the judge, I think I can give an example of that in the case of an
15 adultery, and I think a lady was whipped 80 lashes. That lady, as far as I think, was
16 charged with adultery, but adultery to be proven is very demanding in Sharia, unless
17 someone confessed or there is a pregnancy. To prove that someone committed
18 adultery you need to have four witnesses who saw adultery being committed before
19 their own eyes, they saw the actual sexual intercourse. And that is difficult to prove.
20 But if two people were found in a bed, in a bed doing something similar to a adultery,
21 or that there were no four people witnessing that, this is when it's left to the judge to
22 decide.
- 23 I remember there was an example of such nature where the judge did rule 80 lashes,
24 but there was no confession and there was -- and there were no four witnesses. And
25 this is an example of when it's called *tazir* and not *haad*.

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1 Q. [14:14:02] Could you give the example?

2 A. [14:14:08] This is the example, I gave you this example, this lady was whipped
3 80 lashes. I think her name is Sallaka as far as I think.

4 MR DUTERTRE: [14:14:29] I would now like to show photo 0018-2594, which is at
5 tab 77. And perhaps we could move into private session, your Honour.

6 PRESIDING JUDGE MINDUA: [14:14:53](Interpretation) We are in private session.
7 We are not. Okay. Let's move into private session, court officer.

8 (Private session at 2.15 p.m.)

9 THE COURT OFFICER: [14:15:11] We are in private session, Mr President.

10 PRESIDING JUDGE MINDUA: [14:15:21](Interpretation) Thank you. Prosecutor.

11 MR DUTERTRE: [14:15:24](Interpretation)

12 Q. [14:15:25] [REDACTED]?

13 A. [14:15:31] [REDACTED]
14 [REDACTED].

15 Q. [14:15:46] And compared with the previous photo, what does this one show?

16 A. [14:15:53] This is from the same -- this is.

17 THE ARABIC INTERPRETER: [14:15:59] The interpreter couldn't catch the witness's
18 answer.

19 MR DUTERTRE: [14:16:10](Interpretation)

20 Q. [14:16:11] Could you please repeat the end of your answer, Mr Witness.

21 A. [14:16:17] This is the -- a photo of the same event, just like the previous photo,
22 [REDACTED].

23 Q. [14:16:46] Do you know to which organ the people in the middle with the black
24 boubou belong?

25 A. [14:16:53] Yes, they are from the Islamic police.

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1 Q. [14:17:08] Mr Witness, we see again the small sign at the back, and just in front
2 of it we see a face looking over the shoulder of the woman who is veiled. Do you
3 know who this person is?

4 A. [14:17:29] That's Mr Al Hassan.

5 MR DUTERTRE: [14:17:51] I'd now like to go back into private session.

6 PRESIDING JUDGE MINDUA: [14:17:58](Interpretation) We are in private session.

7 MR DUTERTRE: [14:18:01](Interpretation) I apologise, your Honour.

8 Q. [14:18:05] Mr Witness, this is 0018-2590. [REDACTED] ?

9 A. [14:18:19] [REDACTED]

10 [REDACTED].

11 Q. [14:18:42] In terms of time, do you know whether it was the same event as the
12 previous one or whether it was before or after?

13 A. [14:18:54] I don't know. I cannot be specific.

14 Q. [14:19:02] And with regard to location, we can see a small sign in the
15 background. Can you tell us where this is?

16 A. [14:19:14] Certainly. It's the same location, the same square.

17 MR DUTERTRE: [14:19:27](Interpretation) We can move into public session, your
18 Honour.

19 PRESIDING JUDGE MINDUA: [14:19:32](Interpretation) Public session, please,
20 court officer.

21 (Open session at 2.19 p.m.)

22 THE COURT OFFICER: [14:19:41] We are in open session, Mr President.

23 PRESIDING JUDGE MINDUA: [14:19:51](Interpretation) Thank you.

24 Prosecution.

25 MR DUTERTRE: [14:19:53](Interpretation) Thank you, your Honour.

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1 Q. [14:19:57] What is the person who is covered and dressed in black doing? Why

2 is she there, Mr Witness?

3 A. [14:20:07] As far as I think, here -- she is here at the square to be whipped, right

4 the heart of the square that is in the middle of the market in Timbuktu.

5 MR DUTERTRE: [14:20:31](Interpretation) I'd like to move into private session,

6 please, your Honour.

7 PRESIDING JUDGE MINDUA: [14:20:37](Interpretation) Court officer, private

8 session, please.

9 (Private session at 2.20 p.m.)

10 THE COURT OFFICER: [14:20:45] We are in private session, Mr President.

11 PRESIDING JUDGE MINDUA: [14:20:54](Interpretation) Thank you, very much.

12 Prosecution.

13 MR DUTERTRE: [14:21:03](Interpretation) I would like to show the photo

14 18-1033-R01, tab 68, and translation is at tab 69. 0018-1033.

15 Q. [14:21:50] [REDACTED]?

16 A. [14:21:58] [REDACTED]

17 Q. [14:22:12] Can you tell us when [REDACTED]?

18 A. [14:22:18] As it is clear here, November 29, 2012.

19 Q. [14:22:30] [REDACTED]?

20 A. [14:22:34] It is not clear here before me, [REDACTED]

21 [REDACTED]

22 Q. [14:23:02] [REDACTED] I will

23 show a document 0018-1035, which is at tab 70, and the translation is 78-2346 at

24 tab 71.

25 I will give you the time to read that. And when you've got to the middle of the page

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1 let me know, and I can put the document up higher so that you can read the rest.

2 (Pause in proceedings)

3 MR DUTERTRE: [14:25:54] We can scroll down.

4 Have you reached the bottom of the page, Mr Witness?

5 A. [14:27:18] Yes.

6 Q. [14:27:23] [REDACTED] ?

7 A. [14:27:28] [REDACTED]

8 Q. [14:27:35] [REDACTED] ?

9 A. [14:27:44] I think so [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 Q. [14:28:06] And what is being described in this [REDACTED] ?

13 A. [14:28:15] The paper described inmates in prison and a number of people
14 against whom were punishments executed. And, there were extensive details on
15 that in the paper.

16 Q. [14:28:50] [REDACTED]

17 [REDACTED] ?

18 A. [14:29:02] It's possibly the same event and that's likely. Although, I don't
19 remember this. [REDACTED]

20 [REDACTED] I don't remember. [REDACTED]

21 [REDACTED]

22 Q. [14:29:38] Very well. One point of clarification while we're here. In the third
23 paragraph, it says, in the translation into English: (Speaks English) "The *Hisbah*
24 established a women's prison, which is next to the men's prison, and passed a law
25 prohibiting men from entering the female prison [...]"

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1 MR DUTERTRE: [14:30:15](Interpretation) We could move into public session for
2 the reply, now that I've asked the question.

3 PRESIDING JUDGE MINDUA: [14:30:27](Interpretation) Yes.

4 Open session, please, court officer.

5 (Open session at 2.30 p.m.)

6 THE COURT OFFICER: [14:30:36] We're in open session, Mr President.

7 PRESIDING JUDGE MINDUA: [14:30:42](Interpretation) Thank you.

8 Prosecution.

9 MR DUTERTRE: [14:30:44](Interpretation) Thank you, your Honour. I want to ask a
10 question to this, and then I want to come back to the previous item. And then I've
11 got one more that I looked at.

12 I do realise the time but I've got this -- these things I need to deal with.

13 PRESIDING JUDGE MINDUA: [14:31:00](Interpretation) If we're talking about five
14 minutes, that would be okay.

15 MR DUTERTRE: [14:31:04](Interpretation) Five, 10.

16 PRESIDING JUDGE MINDUA: [14:31:11](Interpretation) Okay, that will bring us to
17 a close for today.

18 MR DUTERTRE: [14:31:15](Interpretation)

19 Q. [14:31:18] Can you tell us, Mr Witness, what you know about the women's
20 prison?

21 A. [14:31:26] The women prison in Timbuktu was in the last stage of the
22 groups -- the Islamist groups' occupation of Timbuktu. Then, there became a prison
23 especially for women.

24 Q. [14:31:58] What do you mean by the -- saying that the women's prison was
25 occupied? "Occupied"? What do you mean by that?

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1 A. [14:32:09] At the beginning, there was no prison for women. But there became a
2 prison for women at the end of their occupation. But in the beginning, there was no
3 prison for women.

4 Q. [14:32:33] Very well. So where did they put the women who had been arrested
5 before the occupation?

6 A. [14:32:45] I don't know specifically. But I think women were left in their
7 family's homes and their cases would be monitored until a decision would be
8 reached -- until a court decision would be implemented.

9 Q. [14:33:11] Where was this women's prison, Mr Witness?

10 A. [14:33:20] I don't know. I have not been to the women prison.

11 Q. [14:33:33] I understand.

12 MR DUTERTRE: I'd now like to move back into private session.

13 PRESIDING JUDGE MINDUA: [14:33:48](Interpretation) Private session, please,
14 court officer.

15 (Private session at 2.33 p.m.)

16 THE COURT OFFICER: [14:33:58] We are in private session, Mr President.

17 PRESIDING JUDGE MINDUA: [14:34:03](Interpretation) Thank you.
18 Prosecution.

19 MR DUTERTRE: [14:34:06](Interpretation) Thank you, your Honour.

20 Q. [14:34:12] I've now returned to the document 0018-1033-R01. Can you tell us

21 [REDACTED]?

22 A. [14:34:38] [REDACTED] I am not sure, [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 There was also a rumour that women were being aggressed in the prison [REDACTED]

4 [REDACTED]

5 [REDACTED] the people overseeing

6 the prison, no -- there is a rule that no one would get into the prison by himself. It

7 has to be two people coming in together and coming out together.

8 Q. [14:36:11] Very well. Were the guards at the women's prison women or men as
9 far as you know?

10 A. [14:36:21] They were certainly men. No women. Al-Qaeda doesn't use
11 women in anything.

12 Q. [14:36:36] And why is that so? Why does Al-Qaeda never use women for
13 anything?

14 A. [14:36:44] I don't know why exactly. [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 Q. [14:37:07] Who said that there needed to be two people in order to enter the
18 women's prison?

19 A. [14:37:19] [REDACTED]

20 [REDACTED] the guards of the prison. Because

21 when was -- this prison was created, there -- there became a force called the prison

22 guards' force and their only job was to guard the prison.

23 Q. [14:37:51] And the rumours about the women in the women's prison, was that
24 something you heard from a specific person?

25 A. [14:38:06] I think the matter was a rumour circulating [REDACTED]

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1 [REDACTED] in Timbuktu. But I am sure there were no aggressions in
2 Timbuktu because at that time, anyone would think a million times before in any way
3 exerting any sexual lust.

4 Q. [14:38:49] You said the women's prison was near the men's prison. Where was
5 the men's prison in Timbuktu?

6 A. [14:38:59] I think, I'm not sure, I think it was within -- it was in the civilian
7 prison that belonged previously to the Malian national guard.

8 Q. [14:39:20] Thank you. I come back to the document on the screen and you
9 said -- you see the date of the -- of November, [REDACTED]
10 [REDACTED]?

11 A. [14:39:52] [REDACTED] -- what is
12 mentioned here is that on the morning of a Thursday -- it was written on that same
13 day. [REDACTED]

14 [REDACTED]
15 MR DUTERTRE: [14:40:23](Interpretation) I've got one final document, your
16 Honour. 0018-1032-R01. Tab 328, perhaps the court officer could put it on the
17 screen. It's ...

18 And it's 0067 and it's at 329.

19 THE COURT OFFICER: [14:41:34] (Overlapping speakers) The document is
20 displayed on the evidence 1 channel.

21 MR DUTERTRE: [14:41:44](Interpretation) Perhaps we can expand it, enlarge it.

22 Q. [14:41:59] Mr Witness, [REDACTED]?

23 A. [14:42:03] [REDACTED] it talks about the same thing. It's
24 the same [REDACTED]. This is part of the same [REDACTED] and about the same event, [REDACTED]

25 [REDACTED]

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2

3 Q. [14:42:42] And you see that it says 29 November 2012 [REDACTED]?

4 A. [14:42:54] Yes.

5 Q. [14:42:58] And in the bottom, [REDACTED]

6 [REDACTED] is it not?

7 A. [14:43:08] Yes, it's the [REDACTED].

8 Q. [14:43:15] Thank you.

9 MR DUTERTRE: [14:43:16](Interpretation) We can now move out of private session.

10 This brings me to a close for today, and I thank you for your patience.

11 PRESIDING JUDGE MINDUA: [14:43:27](Interpretation) Public session, please,

12 court officer.

13 (Open session at 2.43 p.m.)

14 THE COURT OFFICER: [14:43:35] We are back in open session, Mr President.

15 PRESIDING JUDGE MINDUA: [14:43:41](Interpretation) Thank you, court officer.

16 Mr Dutertre, you've finished for today?

17 MR DUTERTRE: [14:43:49](Interpretation) Yes, indeed I have. I've just said so.

18 PRESIDING JUDGE MINDUA: [14:43:55](Interpretation) Mr Witness, this brings us

19 to the close of your testimony for today. Tomorrow you will continue to give your

20 testimony. Between now and then, please do not forget that you are not allowed to

21 talk about your testimony to anybody at all, as I said to you yesterday.

22 I would now simply like to thank everybody, all those who have been part of today's

23 proceedings, the parties, the participants and, of course, the court reporters and the

24 interpreters. And, of course, the security officers.

25 I would also like to thank our audience for being with us.

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1 We will meet again at 9.30 tomorrow morning, when we will continue to hear the
2 same witness.

3 We will now close today's hearing.

4 The hearing is adjourned.

5 THE COURT USHER: [14:45:06] All rise.

6 (The hearing ends in open session at 2.45 p.m.)

7 CORRECTIONS REPORT

8 The following corrections, marked with an asterisk and not included in the
9 audio-visual recording of the hearing, are brought into the transcript.

10 Page 7 lines 9-10

11 "May the peace mercy and blessings of Allah be upon you. You want a statement...."

12 Is added

13 Page 24 lines 13-14

14 "Is that the person with the amputated hand." Is corrected to "Is that the amputated
15 hand?"